

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-163-C - ORDER NO. 2005-554
OCTOBER 13, 2005

IN RE: Application of AccessLine Communications Corporation for Authority to Operate as a Reseller of Interexchange Telecommunications Services within the State of South Carolina and to be Regulated in Accordance with Procedures Established for Alternative Regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.) ORDER) GRANTING) CERTIFICATE FOR) INTEREXCHANGE) AUTHORITY AND) MODIFIED) ALTERNATIVE) REGULATION
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The Public Service Commission of South Carolina (the “Commission”) hereby adopts the following Order originally proposed by Hearing Examiner David Butler in this case and consented to by the parties and hereby makes it the Order of the Commission in this case.

This matter comes before the Commission by way of the Application of AccessLine Communications Corporation (“AccessLine” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2004) and the general regulatory authority of the Commission. By its Application, AccessLine also requests alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-

661-C, which was modified by Commission Order No. 2001-997, and, in addition, requests a waiver of Commission Regulation 103-610.

The Commission's Docketing Department instructed AccessLine to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of AccessLine and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. AccessLine complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

This Commission appointed Mr. David Butler as hearing examiner in this case in Order No. 2005-351, pursuant to the authority granted in S.C. Code Ann. Section 58-9-1020 (1976). Subsequent to the hearing in this matter, and pursuant to 26 S.C. Code Ann. Regs. 103-865, Mr. Butler submitted a proposed order to the parties in this matter, and gave those parties ten days after receipt of that Order to file exceptions to the Order, briefs, or a request for oral argument before this Commission. No exceptions, briefs, or requests for oral argument were received. Accordingly, we will decide the matter based on the record of the case and the proposed Order as submitted by the hearing examiner.

A hearing was convened before the hearing examiner on August 29, 2005, at 10:00 a.m. in the Commission's Meeting Room, Columbia, South Carolina. AccessLine was represented by Scott Elliott, Esquire. Wendy B. Cartledge, Esquire, represented the Office of Regulatory Staff.

Kerry Rea, the Vice-President Controller of AccessLine, appeared and testified in support of the Application. The record reveals that AccessLine is incorporated in the State of Delaware, headquartered in the State of Washington, and registered to transact business in the State of South Carolina as a foreign corporation. According to Mr. Rea, AccessLine proposes to operate as a reseller of intrastate interexchange telecommunications services to the public on a statewide basis.

Specifically, AccessLine provides customers with a single number with “find me,” “follow me” and fax mail functionality. AccessLine’s service also allows outbound dialing capabilities for subscribers for long distance calling. AccessLine’s services will be offered twenty-four hours per day, seven days a week. The Company does not own any network switches or transmission facilities and will operate as a reseller of services. Mr. Rea explained the Company’s request for authority, and the record reveals the Company’s services, operations, and marketing procedures.

Mr. Rea also discussed AccessLine’s technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. Rea offered that AccessLine possesses sufficient financial resources to support its operations in South Carolina. Although the financial records of the Company show losses over the last several years, Mr. Rea testified that the Company received more than sufficient funds from venture capital concerns to alleviate any monetary difficulties. Mr. Rea further stated that the Company’s financial forecast showed the Company beginning to earn a profit during the first half of 2006. Mr. Rea noted that the Company’s underlying costs are fixed, and the Company’s likelihood of making a profit will increase rapidly, due to

increased penetration and the resultant additional customers.

With regard to management and technical capabilities, Mr. Rea testified that AccessLine is currently licensed to provide telecommunications services in a number of states and the District of Columbia. The Company has not been denied a license in any of the states in which it has applied, nor has it been the subject of any investigations by any governmental regulatory agencies. The Company had one certificate administratively revoked, but the Company cured that revocation.¹ Both the Company's Application and Mr. Rea's testimony reveal that members of AccessLine's management team have extensive experience in marketing and communications. Mr. Rea also testified that AccessLine will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Rea offered that approval of AccessLine's Application would serve the public interest by increasing the level of long distance competition in South Carolina, by providing a high-quality alternative of long distance service, and by increasing consumer awareness of options and services available, thus encouraging the growth and success of competitive services.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

¹ Post-hearing, a letter dated September 22, 2005 was received from counsel for the Company, noting that additional research had revealed seven states in which a certificate was administratively revoked, but that all revocations had been cured. This letter, however, was not part of the evidence of the hearing, and, even if it had been, did not affect the decision in this case.

FINDINGS OF FACT

1. AccessLine is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. AccessLine is currently licensed to operate as a telecommunications reseller in a number of states and the District of Columbia, has a substantial customer base, and has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. AccessLine desires to operate as a reseller of interexchange telecommunications services in South Carolina.

4. We find that AccessLine possesses the managerial experience and capability to operate as a non-facilities based reseller of interexchange services in South Carolina.

5. We further find, based on the financial records and balance sheets submitted by the Company, that AccessLine possesses sufficient financial resources to provide the services as described in its Application.

6. We finally find that the issuance of a Certificate of Public Convenience and Necessity to AccessLine to operate as a reseller of interexchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of long distance competition in South Carolina, by providing an alternative of long distance service, and by increasing consumer awareness of options and services available, thereby encouraging growth and success of competitive services.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission concludes that a Certificate of Public Convenience and Necessity should be granted to AccessLine to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for AccessLine for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. AccessLine shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. AccessLine shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16,

1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2004).

4. With respect to AccessLine's business services, the Commission adopts a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to AccessLine also. These alternative regulation orders were modified by Order No. 2001-997 in Docket No. 2000-407-C which imposed a cap on operator-assisted calls where a consumer uses a local exchange carrier's calling card to complete calls from locations which have not selected the local exchange carrier as their toll provider.

Pursuant to Order No. 2001-997, this Commission modified the alternative regulation by the re-imposition of rate caps with regard to certain operator-assisted calls where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator

surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. The re-imposition of rate caps for certain operator-assisted calls has led to alternative regulation now being known as “modified alternative regulation.” The provisions of Order No. 2001-997 and the modification contained therein also apply to AccessLine.

5. If it has not already done so by the date of issuance of this Order, AccessLine shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission’s Rules and Regulations.

6. AccessLine is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company’s resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. AccessLine shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If AccessLine changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, AccessLine shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has

been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, AccessLine shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

10. AccessLine shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, AccessLine shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp. The title of this form is "Annual Report for Interexchange Companies." This form shall be utilized by the Company to file annual financial information with the Commission and the Office of Regulatory Staff and shall be filed no later than **April 1st**. Commission gross receipts forms are due to be filed with the Commission and the Office of Regulatory Staff no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp, and the appropriate form is entitled "Gross Receipts for Utility Companies."

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests

and repairs. In addition, the Company shall provide to the Commission and Office of Regulatory Staff in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. AccessLine shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this information to the Commission and Office of Regulatory Staff. Further, the Company shall promptly notify the Commission and Office of Regulatory Staff in writing if the representatives are replaced.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

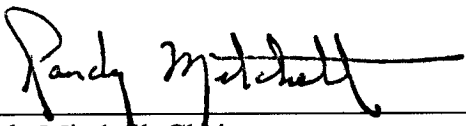
13. At the hearing, AccessLine requested a waiver of 26 Code Regs. 103-610 (1976), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that AccessLine’s principal headquarters will be located in the State of Washington, and AccessLine requests permission to maintain its books and records at its headquarters in that state. The Commission finds AccessLine’s requested waiver reasonable and understands the difficulty presented to AccessLine should the waiver not be granted. The Commission therefore grants the requested waiver that AccessLine be allowed to maintain its books and records at its principal headquarters. However, AccessLine shall make available its books and records at all reasonable times upon request by the Commission or the Office

of Regulatory Staff, and AccessLine shall promptly notify the Commission if the location of its books and records changes.

14. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides the Commission and Office of Regulatory Staff information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed with the Commission and the Office of Regulatory Staff annually no later than August 15th.


15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Randy Mitchell, Chairman

ATTEST:



G. O'Neal Hamilton, Vice Chairman

(SEAL)